

This set of minutes was approved at the May 16, 2011 Town Council meeting

**Durham Town Council
Monday April 4, 2011
Durham Town Hall - Council Chambers
7:00 P.M.
MINUTES**

MEMBERS PRESENT: Council Chair Diana Carroll; Council Chair Pro Tem Jay Gooze; Councilor Neil Niman; Councilor Julian Smith; Councilor Peter Stanhope; Councilor Robin Mower; Councilor Bill Cote; Councilor Kitty Marple; Councilor Jim Lawson

MEMBERS ABSENT: None

OTHERS PRESENT: Town Administrator Todd Selig; Business Manager Gail Jablonski; Assessor Jim Rice

I. Call to Order

Chair Carroll called the meeting to order at 7:03 pm.

II. Approval of Agenda

Councilor Mower MOVED to approve the Agenda. Councilor Gooze SECONDED the motion.

Councilor Smith MOVED that Item X A be removed from the Agenda. Councilor Mower SECONDED the motion.

Councilor Smith and Chair Carroll explained that this agenda item, which was a public hearing, wasn't necessary because the Town Attorney's communication had indicated that the 8 Jenkins Court property didn't qualify for tax relief under the Community Revitalization Tax Relief Incentive Program (RSA 79-E).

The motion PASSED unanimously 9-0.

The Agenda as amended PASSED unanimously 9-0.

III. Special Announcements - None

IV. Approval of Minutes

February 21, 2011

Councilor Mower MOVED to approve the February 21, 2011 Minutes. Councilor Smith SECONDED the motion, and it PASSED 6-0-3, With Councilor Cote abstaining because he was not at the meeting, and Councilors Marple and Lawson abstaining because they weren't on the Town Council at that time.

V. Councilor and Town Administrator Roundtable

Councilor Gooze said the Planning Board met on March 23rd, and approved an application for a food wagon that would be located across from the Durham Bike shop. He said there was also a presentation from University architect and planner Doug Bencks on the plans for the new Business School, and said Mr. Bencks was questioned in depth about what was proposed. Councilor Gooze said it was a nice looking project, and said the University planned to start construction this summer.

Councilor Mower said some very good points had been made by members of the public and the Planning Board during the discussion with Mr. Bencks, and said she hoped there would be some responses from the DPW specifically. She said one recommendation that came out of the discussion was that as part of this project, the Town should take the opportunity to fix the water infrastructure along Garrison Ave., before it was repaved.

Councilor Smith said it would be useful for Administrator Selig to watch the DVD. He said Planning Board member Richard Kelley had a number of very precise, detailed comments and questions for Mr. Bencks concerning that project, including questions about the degree of DPW involvement with the planning for the project.

Councilor Gooze noted that he had recused himself from being a part of the deliberations on the Capstone project because he felt it was not appropriate for him to be involved.

Councilor Smith said the Planning Board had continued deliberations on the Capstone applications at its most recent meeting. But he said because it took awhile to get through the preceding agenda items that evening and there were other issues the Board needed to discuss, members decided to have a special meeting devoted entirely to the Capstone applications on April 6th.

Councilor Cote said he had looked at the most recent issue of the American Public Works Association publication, and was pleased to learn that CLD Consulting had won an award for engineering excellence for the Wiswall Bridge replacement project.

Councilor Mower noted that a recent Wire NH article indicated that NH ranked fourth in the nation for LEED-certified green buildings per capita, according to the U.S. Green Building Council, and was the only state in New England to make the top 10 list.

Councilor Mower said the impact fee for waivers from having to provide parking for downtown apartment buildings hadn't changed since 1993. She said it was still \$750/year, and said using a 3% inflation rate, the cost would be \$1,240. She asked if looking at this was on a list of priorities.

Councilor Mower also made note of the fact that Town Planner Jim Campbell had previously indicated that he had put some money in the Budget for an economic development web page, but it was then cut back. She said she had then suggested that a query could be put out to the community in the Friday Update to see if someone might want to volunteer to do this work, and asked what the status of this was.

Councilor Gooze said the Library subcommittee was pretty much done concerning the final pricing of the new Library. He said they had decided to include some LEED elements in the project, but not to go for LEED certification. He noted that the new Business School would be a LEED Gold project.

Councilor Stanhope said he had some questions about participation by Administrator Selig in effectively lobbying for amended language to a recent bill related to happy hours. He said he realized that the Council hadn't taken a position on this issue, and asked if it was therefore appropriate for Administrator Selig to act on behalf of the Town on something like this.

He said a question was whether there should first be discussion by the Council on this or other issues, in order not to usurp somewhat the elected members of the community. He noted that it was the general policy issue in regard to the Town Administrator that concerned him, and not the happy hour bill in particular.

Councilor Gooze said if one was watching what was happening with Legislation in Concord right now, things were happening very fast every day, and between Council meetings. He said the only way for the Council to have the discussion that Councilor Stanhope would like to see was to have additional meetings. He said he thought Administrator Selig was going by what the will of the Council was, and said in the instance of this particular bill, he was protecting the Town against anything that would make it easier for students in Durham to drink, which would be a problem.

Administrator Selig said this policy issue went to the importance of the Council goals, and the values the Council adhered to. He said when he saw an issue he believed the Town had an interest in, he engaged, and worked hard to keep the Council informed. He said on this particular topic, this was an initiative sponsored by bar owners, which would have legalized billboard advertising of happy hours.

He said there were already tremendous challenges in Durham's downtown because of young people sometimes partying there, and said alcohol was the root cause of most of the behaviors seen there. He said he thought this was an issue Durham would have a lot of concerns about. He said he had in fact come to the Council before going to Concord.

He explained that the amendment to the bill that he had put forward in Concord, on behalf of the community, was to allow a local community to opt out of the relaxation of the restriction, which would ensure that the Council would have the ability to take a role and choose. He said as approved by the Senate, exterior billboard advertising of happy hour would have this local option, and said they would see if this would stand up in the house. He said if the Council would like him to disengage from this issue, he would be happy to do so, because there were a lot of other issues to deal with.

Councilor Stanhope said most bills were filed some time ago, and said if Administrator Selig identified particular bills, it was important to be clear with the Council that he would like to take a position on them. He also noted that Administrator Selig sometimes spoke on behalf of the NH Municipal Association, and the NH Municipal Management Association, and asked him what he would do if he was asked by that association to speak in a manner that was in conflict with the Town of Durham.

Administrator Selig said he wouldn't do it.

Councilor Gooze noted that there were 1000 bills filed, so keeping track of which ones were relevant was difficult.

Councilor Cote said that going forward, it would be nice if there was time to brief the Council on a particular bill, so that Administrator Selig could have a mandate concerning it, which would carry more weight.

Councilor Smith thanked Administrator Selig, and said the impression he was getting was that if Mr. Selig hadn't suggested the opt-out amendment, and the Legislature had then passed the legislation, this would have taken the control out of the Town's hands.

Councilor Lawson said the Economic Development Committee had recently met, and said Energy Committee Chair Kevin Gardner had reviewed the Committee's proposed summer pilot project to change traffic patterns and parking on Madbury Road from the Post Office to Pettee Brook Lane. He said discussion included the possible loss of underutilized parking on Madbury Road. He said the EDC felt the project was consistent with the objectives of making the area more pedestrian friendly, and was supportive of the project if the Council thought it was feasible.

He said the next meeting of the EDC would be the following Monday, and would include EDC member Yusi Wang Turell's presentation on the findings from the business visitation survey. He said it was also expected that Ian Colgan from DCI would present the results of the recent market study of the Town that his company had done.

Councilor Gooze noted that some people who went to meetings above the Post Office had trouble finding parking spaces, and were advised that some places would be held for them along Madbury Road.

Councilor Lawson said the spaces to the right were for permit holders, and the spaces to the left were for two hour parking. He said both parking areas were underutilized, and said if the spaces on the right were lost, he was confident there would be enough capacity on the left. He also noted there was the capacity in the Pettee Brook lot.

Councilor Mower said better management was needed of the parking at the federal office building, and Councilor Lawson said it was a municipal lot.

Administrator Selig said Vice President Joe Biden had made a speech that day at the UNH MUB on the issue of sexual assault/violence at college campuses and secondary schools around the country. He said Vice President Biden and Secretary of Education Arnie Dunkin renewed their commitment to addressing these serious issues. He said students, town officials and UNH administrators were present. He said it was a major undertaking for the Town to have the Vice President come to Durham, noting that police officers from surrounding towns assisted. He said it cost about \$20,000 for the event, but said all of the Town's costs would be covered by the University.

Chair Carroll said she was at the MUB for the speech, and said Vice President Biden had spoken with a lot of passion. She said a reason for this was that he had written some of initial legislation on domestic violence, and said he had delivered an important message for college, high school and middle school students. She complimented UNH on the work it was doing in the area of prevention, and noted some of the programs they had recently introduced.

Councilor Smith said Vice President Biden had begun his speech by acknowledging State Reps. Timothy Horrigan and Jenna Roberts.

Administrator Selig said the search committee had determined the finalists for the high school principal position, and said on April 11th, the School Board would begin public interviews of the candidates. He said the plan was to finalize the search effort that evening, and said this was an opportunity for residents to be involved in the process.

Administrator Selig said on Wednesday at 10 am, there would be a meeting between NHDES, the Town, and UNH representatives concerning the Lamprey River Management Plan, which would be replacing the 401 certificate. He noted that NHDES had discounted essentially all of the feedback Durham had provided, and said there had been a lot of discussion back and forth on this. He said the meeting had been intended to be a work session, but said he had suggested that there also be the opportunity for public input. He said he had tried to make this an evening meeting, but that wasn't possible.

Councilor Smith asked if drafts of what NHDES wanted would be available, and Administrator Selig said he would print out the most recent version.

Councilor Mower said it would be useful to see it, and also suggested that it should be put on the Town website.

Administrator Selig said UNH Professor Tom Ballestero, and someone from Normandeau Associates, which had helped write the instream flow regulations, might also be there. Councilor Mower noted that Professor Ballestero had helped Durham with the draft aquifer protection overlay ordinance.

Administrator Selig told Councilor Mower that he had forgotten about the idea of an economic development web page for Durham. He also said he wasn't sure where things stood concerning the fee in lieu of parking issue.

Councilor Mower said this could be a potential source of revenue.

Administrator Selig told Councilors he had spoken recently with Attorney Scott Hogan, who represented property owner Barrett Bilotta, and was told that Mr. Bilotta might speak with the Town about the parcel he owned next to the Library site. He said what had become clear to Mr. Bilotta was that the Town had moved forward without him.

Councilor Mower said it might also be interesting to point out that the Town had pulled back on the scale of the new Library in large part because of financial constraints, and so wasn't about to pay top dollar for some land.

Administrator Selig noted that he, Councilor Niman, and a representative from the University had met previously with a representative from Sora Holdings about the idea of a possible public/private/Sora partnership to develop a hotel/performing arts center/etc. He said there was quite a bit of interest by Sora and University officials, and said a Sora representative would be coming back to speak further with University representatives about possible partnership opportunities, as well as with some members of the Council and the EDC.

Councilor Mower asked if C lot might be included in the mix.

Administrator Selig said Sora had said that if everyone was interesting in talking further, it would do a Master Plan of its own, and would then bring this back to show everyone. He said he didn't know what this would include.

Councilor Cote said if things proceeded to that level, perhaps the Town should share the B Dennis report with Sora, so they could pull in some of the elements from it.

Concerning the Energy Committee's ideas about a possible pilot bike route project, Administrator Selig said he had asked the engineering division of the DPW to draw up what a re-design might look like.

Councilor Mower said they had been invited to come to an Energy Committee meeting, and said the invitation could be extended to the EDC as well.

Councilor Marple asked if the Council would get a chance to discuss that plan, and was told that the Council would see it, as would the Traffic Safety Committee.

Administrator Selig spoke about the fact that he had recently agreed to meet with the Durham Landlord Association about the Capstone applications. He said it was a productive meeting, where the landlords had expressed several concerns about the project. He said one concern was whether there would be sufficient demand for the additional housing stock that would come on line, and the impact that would have on the marketplace for student rentals.

He said they also expressed concerns about whether or not regulatory boards were treating applicants in the same manner that they had experienced over the years. He said Paul Berton had spoken about the challenges he had faced with the first iteration of the hotel project, which was supposed to be a mixed use structure. Administrator Selig noted that the first application was not approved.

He said he had said to them that Durham had worked hard over the past several years to make its review processes more user friendly and predictable, and said as a variety of projects had been brought forward, the Town had worked hard to make the process a positive experience for them too.

He said the landlords were weighing whether it was appropriate to challenge the ZBA decision concerning the Capstone project, and said the deadline for filing was Thursday. He said whatever happened at the Planning Board level, the landlords would then have to decide whether it was appropriate to contest some of that.

He said the landlords had asked whether it would be possible to meet with a Capstone representative to work through their concerns. He said he had reached out to John Acken, who had agreed to fly in this morning, and met with him and a DLA representative. He said his own role had been to facilitate the meeting, and said it was cordial, with a good exchange of information and some clarifications on some issues.

But he said ultimately no decisions were made and there was no meeting of minds. He said if the landlords felt the land use boards had made an error, they would have to make a decision as to whether to mount a legal challenge. He said he hadn't committed the Town to anything, and had tried to get communication between the parties involved.

Councilor Niman asked if the landlords had mentioned land use concerns, or if the concerns were about entry of a competitor into the student housing market.

Administrator Selig said his sense was that they wanted to ensure that other applicants were held to the same standards that they had been held to in the past. He also said the existing professional landlords had tremendous concerns about a competitor of this scope, and what it would do to the market in Town.

Councilor Niman said with the Rivers Edge development, the project was located in the same area of Town and so faced the same issues in regard to the river. He asked if that applicant was saying he was treated differently or held to a different standard than Capstone was being held to now.

Administrator Selig said all of the landlords had specific examples of how they believed they had run into obstacles when their projects went through the review process. He said he had explained that the Town had been trying to facilitate the review process in recent years. He noted that particularly for projects located at the west end of Town, there had been major impediments to bringing projects on line, especially with regard to the wastewater infrastructure. He said the Town had worked over the past 5 years to engineer and fund solutions. He said Jeff White and Perry Bryant had made a contribution to the wastewater fund as part of their projects, which had then been utilized to fund the infrastructure improvements, and which had now opened up the corridor to additional development. He said Capstone, as the next project to the west, had benefited from those improvements that had been made.

Chair Carroll said discussion on this matter would be continued as part of the extended roundtable discussion.

VI. Public Comments (*NLT 7:45 PM*)

Roger Speidel, 7 Nobel K Petersen Drive, noted that he had told the Council he would keep them abreast of what he said to the School Board. He presented a graph which showed that according to the most recent census, Durham lost more people under 18 than any other town in Strafford County. He said there had been a 17.5% decrease. He said Lee had the second most significant decrease, at 16%.

He said he was bringing this up because the School Board was still spending money like drunken sailors, and he noted that the School budget was 68% of the total amount that residents had to pay in property taxes. He said Durham's tax rate was the highest in southern NH, at 27.78, and noted that Hanover, which was also a college town, had a tax rate of 17.73. He said with that tax rate, this would save him \$3,500 a year.

He said he had contacted the 5 best schools in America, and said their cost per student ranged from \$8500 per student to \$13,896 per student. He said Durham, which was not on the list of the 100 best schools in America, spent approximately \$18,000 per student per year. He noted that there was 1 teacher per 11.6 students, and said a reason the ORYA had lost so many students was because taxes were so high. He said the number of Dover students had doubled since the last census because the taxes were lower. He asked what could be done to reduce the \$37 million Budget.

Bill Hall, Smith Park Lane, said the school system would lose 100 kids from the High School over the next several years.

Mr. Hall said Richard Kelley, who was the head of the instream flow related committee, had known nothing about the meeting on Wednesday, and had also said he was incredulous that Durham hadn't sought an amendment to allow an exemption of its water withdrawals from regulation.

Mr. Hall made note of the report from Steve Roberts on the Jackson's Landing boat launch issue, which he said contained data, as compared to the Town, which had nothing on paper.

He said that at the recent presentation on the new Business School project, University Planner Doug Bencks had alluded to some meetings of the mind with DPW staff concerning infrastructure that would be needed for this new building. Mr. Hall said he couldn't find anything about this, and said there was no agreement and no understanding. He said if Garrison Ave. got rehabbed, it would be good for 30 years, but the plumbing wouldn't be. He said it was important to think about the infrastructure underneath the road first.

Mr. Hall noted that he had complained about the fire lanes at the Whittemore Center for some time. He said he had recently seen a bus parked in a fire lane there, with the police around, and said it appeared that the police were using the fire lane for VIP's or overflow. He said he seriously doubted that the Fire Department could get a fire truck in there if one was needed, at least not without backing up. He said this was the responsibility of the Fire Chief, and said he hoped that this issue could be addressed.

Councilor Smith said he had gone past the field house on Sunday, and had seen vehicles parked on either side of the entrance, in the fire lane. He said he had seen that this was a constant problem at the Whittemore Center.

Mr. Hall said there was chlorine in that building,

Karl Van Asselt, 17 Fairchild Drive, provided his suggestions concerning the Town Council goals for 2011.

1. He recommended maintaining or reducing the tax rate of the Town portion of the 2012 budget, and adding a fiscal note - short term, long term, and worst case scenario cost figures, for every action considered by the Town Council.
2. He recommended reducing the tax burden on the single family home owner. He said taxes were a hardship for some, and said unless the tax base was broadened, nothing would be done about taxes on single family homes. He recommended taking actions to enable retail and business development in current zones with reduced restrictions, and with zoning changes in other areas with open space and room for development.
3. He said there should be property reassessments for all single family home owners during 2011, upon request. He said there were other property owners who needed this but didn't have the money to hire a lawyer.
4. He said there should be a smart growth policy for residential housing with changes in zones and regulations that would allow for cluster residential housing (including home/business) with smaller lot sizes, less restrictions, and mandatory "community" open space.
5. He said he thought the timing was right to approve an ordinance creating a public housing authority, and provided details on this.
6. He said the Council should address issues that had stalled the redevelopment of Mill Plaza. He said they knew what these issues were, and said they should either deal with them, or say a 1970's style plaza would remain.
7. He said the Town Hall issue should be resolved, and suggested that the Council should select an alternative location for it, with a funding plan that would use the proceeds from the sale of the existing town hall property.
8. He said a program should be instituted in Town for retirees to work on Town-related projects and receive a reduction in their property taxes for hours worked.

9. He said the Council should resolve the TIF District issue with a policy on what was desired in a TIF in Durham, so a developer could move forward with a plan. He said TIF districts were done in hundreds of places, and they really worked.

Mike Sievert, 28 Riverview Road, said that concerning the comment that all of the landlords were thinking they'd had a hard time going through the Planning Board review process, it was only some of the landlords who felt this way.

Administrator Selig said there were five landlords at the recent meeting he had attended, and said it was that group that had expressed concerns about the review process.

VII. Unanimous Consent Agenda *(Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote)*

None

VIII. Committee Appointments

Begin the process for making annual appointments to vacancies on various Town boards, commissions, and committees

Conservation Commission

Councilor Mower said Derek Sowers had been an excellent member of the Commission in the past and also spoke highly about John Parry.

Administrator Selig noted that Mr. Parry was presently a member of the Strafford Regional Planning Commission, but was not seeking to renew that membership.

Councilor Mower MOVED to reappoint Derek Sowers and appoint John Parry to three-year regular member terms on the Conservation Commission, with term expiration dates of April 30, 2014. Councilor Smith SECONDED the motion, and it PASSED unanimously 8-0.

Councilor Cote was not in the room during the vote, and returned right after the vote was taken.

Library Board of Trustees

Councilor Smith said he had been proud to have served on this Board with Emily Smith and Ann Windsor, who had done fine work. He noted that these recommendations had come from Library Board of Trustees members.

Councilor Smith MOVED to appoint Lisa Pfeiffer, Emily Smith, and Ann Windsor to one-year terms on the Durham Library Board of Trustees, with term expiration dates of April 30, 2012. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.)

Economic Development Committee

Councilor Niman asked if Jim Lawson's regular position was now open, which meant that Yusi Wang Turell could be a regular member of the EDC.

There was discussion that the position was open. Chair Carroll noted that Ms. Turell had asked for an alternate position.

Councilor Lawson said the Town was very fortunate to have Ms. Luxem and Ms. Turell on the EDC, given their expertise and the amount of time they put in as members of the Committee.

Councilor Lawson MOVED to appoint Ute Luxem to a two-year regular member term on the Economic Development Committee, with a term expiration date of April 30, 2013. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.

Councilor Lawson MOVED to appoint Yusi Wang Turell to a two-year alternate member term on the Economic Development Committee, with a term expiration date of April 30, 2013. Councilor Cote SECONDED the motion, and it PASSED unanimously 9-0.

Historic District Commission

Administrator Selig noted that Paul Smith was also interested in serving on the IWMAC, which was low in members.

Councilor Mower said the Council had made it a policy of encouraging those volunteering for boards to come to the Council to introduce themselves, and asked if this was an opportunity to ask Mr. Smith to come to the next meeting and talk about the options.

Chair Carroll agreed that this was a good idea, and said Mr. Smith could indicate at that time which position he was interested in.

Councilor Smith MOVED to reappoint Andrea Bodo to a three-year regular member term on the Durham Historic District Commission, with a term expiration date of April 30, 2014. Councilor Stanhope SECONDED the motion, and it PASSED unanimously 9-0.

Chair Carroll thanked Ms. Bodo for seeking reappointment to the HDC, and said they all knew how much time she put into her work on the Commission.

Planning Board

Councilor Smith MOVED to reappoint Susan Fuller and Richard Kelley to three-year regular member terms on the Planning Board, with term expiration dates of April 30, 2014. Councilor Marple SECONDED the motion, and it PASSED unanimously 9-0.

Councilor Smith said applicant Kathy Bubar had also expressed an interest in being on being on the ZBA. He noted that the ZBA was desperately in need of alternate members, and said she could perhaps indicate her preference.

Ms. Bubar said she'd lived in Durham for about 8 years, and was a lawyer by trade although she was semi-retired now. She said while she had put the Planning Board as her first choice, she had no strong feelings either way about each of the boards. She said she would be happy to serve on the ZBA if she could be more useful in that role.

Councilor Gooze asked Ms. Bubar if she had watched any of Durham's ZBA meetings, and Ms. Bubar said she and her husband were before the ZBA four years ago. Councilor Mower asked Ms. Bubar if she had watched Planning Board meetings and learned what was involved in being a member of that Board.

Ms. Bubar said she realized that this involved a substantial commitment, but said she had a fair amount of time available at the moment.

Councilor Mower asked Ms. Bubar if she had thought about what was involved with land use planning in a small town.

Ms. Bubar said that while she no experience with this, she had done planning as part of her work, which involved political and budget issues similar to what a town faced.

Councilor Mower asked Ms. Bubar if she was familiar with the Durham Master Plan, and Ms. Bubar said not in any detail.

Councilor Gooze noted that the ZBA was a quasi judicial board, and said even though a member might have some personal biases, it was what was in the Zoning Ordinance that that the Board went with. He asked Ms. Bubar if she was comfortable with this.

Ms. Bubar said yes, and said she didn't always agree with the laws that she was asked to argue about. After further discussion with Councilors, she said she would be delighted to serve on the ZBA.

DCAT

Administrator Selig told Councilors that Earl (Chip) Neal had agreed to serve another year on the DCAT Committee.

Councilor Marple MOVED upon the recommendation of the University of New Hampshire to reappoint Erika Mantz as the UNH representative on the DCAT Governance Committee for a one-year term, with a term expiration date of April 30, 2012. Councilor Cote SECONDED the motion, and it PASSED unanimously 9-0.

Councilor Marple MOVED upon the recommendation of the Oyster River Cooperative School District to reappoint Kathleen Young as the ORCSD representative on the DCAT Governance Committee for a one-year term, with a term expiration date of April 30, 2012. Councilor Cote SECONDED the motion, and it PASSED unanimously 9-0.

Councilor Mower MOVED to reappoint Earl Neal to the DCAT Governance Committee for a one-year term, with a term expiration date of April 30, 2012. Councilor Smith SECONDED the motion, and it PASSED unanimously 9-0.

IWMAC

Councilor Smith MOVED to appoint Ellen Karelitz as a regular member on the Integrated Waste Management Advisory Committee Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.

Chair Carroll noted that the Council would determine at the next meeting whether Paul Smith would be willing to serve on the IWMAC or the HDC.

Parks and Recreation Committee

Councilor Cote MOVED to appoint Mike Mengers and Mike Sievert to three-year regular member terms on the Parks and Recreation Committee, with term expiration dates of April 30, 2014. Councilor Marple SECONDED the motion, and it PASSED unanimously 9-0.

ZBA

Councilor Mower received clarification that alternate ZBA members could participate fully in discussions, but could not vote.

Administrator Selig said an issue facing the ZBA at its meetings recently was that with 4 or even 3 members present, there could still be a meeting, but it could be a disadvantage for applicants. He said ideally, there would be alternates to fill in when needed.

Councilor Gooze noted that a recent application had to be extended over several meetings.

Councilor Mower said it troubled her that the ZBA generally only met once a month.

Councilor Gooze said Ruth Davis was an excellent member of the ZBA, as was Ed Harvey. He told Ms. Bubar about the upcoming NH Office of Energy and Planning conference, which among other things provided training for ZBA members.

Councilor Gooze MOVED to appoint Ruth Davis to a three-year regular member term on the Zoning Board of Adjustment, with a term expiration date of April 30, 2014. Councilor Smith SECONDED the motion, and it PASSED unanimously 9-0.

Councilor Gooze MOVED to appoint Edmund Harvey to a three-year regular member term on the Zoning Board of Adjustment, with a term expiration date of April 30, 2014. Councilor Marple SECONDED the motion, and it PASSED unanimously 9-0.

Councilor Gooze MOVED to appoint Kathy Bubar to a one-year alternate member term on the Zoning Board of Adjustment, with a term expiration date of April 30, 2012. Councilor Stanhope SECONDED the motion, and it PASSED unanimously 9-0.

Chair Carroll noted the following committees with openings, for which there were no candidates.

Durham Energy Committee - two vacancies, no term expirations

Councilor Mower said there was a great group of people on this committee, and said they were working on a wide range of issues of interest to the Town and its residents, including alternative energy opportunities, and improvements to bike routes so kids could go to school safely, and the quality of life in Durham could be improved.

Rental Housing Commission - one neighborhood representative vacancy - no term expiration

Councilor Marple said she had served in this position on the RHC, and had found it to be rewarding and challenging. She said there was someone she would be in touch with about joining the RHC.

Strafford Regional Planning Commission (MPO Policy) - one 4-year term, expires 4/30/15; one 4-year term, expires 4/30/14

Administrator Selig said the SRPC focused on long term regional planning and regional land use decisions, including transportation policy decisions. He noted that federal highway grant money as well as State transportation funding was channeled through them.

Chair Carroll said she hoped that more residents would come forward to serve on these boards.

The Council stood in recess from 8:50 to 9:00 PM.

IX. Presentation Items

- A. Status report relative to the appeals process and update on 2008-2010 property tax abatements and appeals by Jim Rice, Assessor, Cross Country Appraisal Group, LLC, and action on outstanding abatement appeals as follows:

Mr. Rice said when he started working for the Town in November of 2009, there were 74 appeals pending, which included 5 in 2007, 59 in 2008, and 10 new ones for 2009. He said these appeals represented 3% of 2500 parcels. He said 59 appeals after a 2008 revaluation wasn't unusual. But he said 74 for three years was a bit unusual, and was more than any community he had worked in.

He said in 2009, there were also 33 abatements to add on to the appeals, which totaled 107 appeals he had been working on for about a year and a half.

He said for this year, there had only been 21 applicants, representing 34 properties. He said one alone was 14 commercial properties.

Mr. Rice said settlements had been negotiated on 67 appeals, and said 40 were pending. He said that represented 13 property owners, and said one of the property owners had 12 properties. He said very few of these pending appeals were single family home properties, and said most of those had been settled. He noted that two people had withdrawn their appeals, and said there might be another that was withdrawn.

He said the 40 pending appeals were now on the docket for this summer/fall, and said either settlements would be negotiated if warranted, or they would go to the Board of Tax and Land Appeals. He said most of them would go to the BTLA because they were properties that sold during the year of the revaluation. He said a few had not been cooperative about giving him the information he'd requested, and said he might be filing for dismissal based on that. He noted that he was working on all of these things in addition to working on the other assessing needs of the Town.

Councilor Gooze asked why the length of the appeal process was so long, and Mr. Rice said the Board of Tax and Land Appeals was backlogged 2 ½ to 3 years out. He said that board had asked him to engage taxpayers in possible negotiations, which meant he had to do due diligence and inspect all of the properties concerning what was on the assessment card, and also look for obsolescence and apply this if appropriate. He said this due diligence was what was taking so long, and noted that he was only in Durham two days a week.

Mr. Rice said most of the appeals would be settled or heard by the BTLA by the end of the year, and said none to date had gone to it. He said with several residential properties he had inspected, the reason the abatement was filed was often because of obsolescence on the properties, which had not been inspected for the revaluation, as well as because of errors in the assessment card concerning living space, etc. He said he'd been able to correct errors and negotiate settlements in this kind of situation.

Concerning commercial properties, he said he had inspected four properties, and said one of them, a utility property owned by NH Telephone, had withdrawn its appeal. He said the others were before the Council that evening. He said a lot of the commercial property appeals that were pending had sold in 2008, and the assessment was less than what they sold for. He provided details on this.

Councilor Gooze asked Mr. Rice if he assessed single family homes used strictly for rentals differently than he assessed single family homes that were not used as rentals.

Mr. Rice said all properties in Durham were assessed at their highest and best use.

There was further discussion on what exactly Councilor Gooze was asking. Administrator Selig said this got to the heart of the question the Rental Housing Committee had posed, which was whether if a property was used as a single family home, its assessment might be lower, and if it was used as a rental, the assessment might be higher because of the rental income, thus discouraging people from turning single family homes into rental properties.

Councilor Stanhope said he suspected that even though the properties were rented, the rent per bed wouldn't support the value that was equal to what it would sell for as a single family residence. He spoke further on this.

Mr. Rice said he agreed with Councilor Stanhope, and did some calculations to prove this.

Councilor Gooze said this also came down to being able to hold a single family home property to no more than 3 unrelated people renting there.

Councilor Stanhope noted that he had been very critical of the Assessing department in the past. He said Mr. Rice had just explained this issue in a fashion that was fact-based, and said this was how he was reaching the decisions he had been making. He said for each abatement he had granted, there was a reasoned explanation provided for the decision. He also complimented Mr. Rice for sitting down with taxpayers, and considering things such as whether there may have been an error, or if there has been a change in the economic environment for a certain class of properties. He said in the long run, this would save the Town a significant amount of money.

Councilor Stanhope asked Mr. Rice whether, when an appeal was forthcoming and was documented with a credible appraisal and the description of the appraisal was consistent with the physical description of the property on the tax card, it was necessary for him to go to the property.

Mr. Rice said if he was going to place a value on a property, he needed to see the property for himself.

Administrator Selig said a question that had come up at the Council table was whether there was some inherent inequity that by not moving forward quickly with an assessment of all properties, the Town was giving some people who chose to file an abatement an advantage.

Mr. Rice said most people who applied for an abatement didn't take the time to fill out the forms unless there was a problem with their property, or the value of their property. He said sometimes they would fill it out because they wanted the assessing process explained to them, and they were then willing to drop their appeal. He said with the properties he had inspected so far, there were legitimate concerns.

Councilor Stanhope said he had always been concerned that there was a hidden percentage of properties that were under assessed. He said he suspected that once Mr. Rice got through this initial wave of appeals, he would be able to look at sub-markets in Town, such as student housing, retail, etc.

Mr. Rice said every year he got an equalization report from the State, which reflected a comparison of what properties in each Town were assessed for compared to what they sold for. He said Durham's equalization ratio for 2010 was 100%, looking at all properties together. He said applying this ratio to one property indicated that the assessment was 1.4% above market value.

He said looking at single family homes, the ratio was 99.1%, which was pretty good, and said these figures indicated that people shouldn't be concerned, unless there was a problem with a particular property. He noted that most of those property owners had applied for abatements.

He said the equalization ratio was 109% for condominiums, and said they might want to look at that, and perhaps make an adjustment for all of them in Town. He said this couldn't just be done for one property. He also said the ratio was 111% for vacant land, but noted that there were only two sales. He said statistically speaking, things looked good in Durham. But he said it was important to take a deeper look, at the subsets of property types.

Councilor Gooze asked how the Library property was handled, noting that it was purchased for \$600,000, but was assessed at \$500,000, and that an “angel” had provided the additional \$100,000.

Mr. Rice said this sale would be considered a disqualified property, as would a foreclosure property and other non-arms-length transactions.

Councilor Stanhope explained that when the forms were filed with the State and indicated that the property didn’t sell at the fair market value, the State would disqualify the sale. He said in the case of the library, the Town would disclose that it knew it was paying substantially more than the fair market value.

Mr. Rice described some of the research he had done on determining whether properties were disqualified or not.

Councilor Mower noted that Mr. Rice had indicated that several appeals would take awhile, and might not happen before the end of the year. She asked what impact this should have on the Council’s budgeting process.

Mr. Rice said the last appeal was scheduled for September, and said he hoped he could move forward on all of these. He said he was still doing due diligence, and provided details on this.

Councilor Mower asked whether the appeals would have an impact on the Town’s 2011 Budget, along with State budget proposals.

Administrator Selig said as part of the budget process, Town staff tried to look ahead at what the likely exposure would be if the Town needed to give rebates for appeals. He said for 2011, \$125,000 had been budgeted. He said in the Town’s evaluation of appeals, its position should not be that it would defend a position at all costs, but that it was trying to come up with fair market value for a property, and if a rebate was due for good cause, it should be granted.

He said the appeals before the Council that evening would put them beyond \$125,000, so the Town would either have to raise taxes to address the difference, take funds from the fund balance, or reduce spending in some area.

Mr. Rice said he could perhaps find some other ways to generate revenue, and said something to explore was taxing certain public utilities that were leasing right of ways, which might have gone un-noticed. He said utilities were previously exempt from this taxation, but also noted that there was a bill before the Legislature that would exempt them again. He said 64 layoffs were proposed at the State Department of Revenue. He also spoke about a proposal that the tax rates for timber would no longer be determined by the State, and a proposal for the gravel tax to be determined locally.

Administrator Selig noted that he had previously urged people to support the Town’s ability to tax utility poles.

Councilor Mower said at a previous meeting, Mr. Rice had suggested that this was essentially a 4-5 day a week job that he had. She asked if this would still be the case after the series of appeals had been addressed.

Mr. Rice said yes. He said while there were only 2500 parcels, there was also the University, which brought a unique set of real estate that took a lot of time to appraise. He provided details on the demands on his time, and noted among other things that the Town would need to be prepared to do another revaluation in 2013.

Administrator Selig spoke about the fact that there had been a lot of conversation about multi-unit properties in Town, including sales of some properties in 2008 at the top of the market, and also about what the impacts on their valuations would be if the Capstone project was approved.

Mr. Rice said it had generally been his experience that concerning the report written regarding student housing pertaining to the 2008 revaluation, the assessments seemed to be consistent with the methodology that was used during the revaluation. He provided details on this. He said if the due diligence was done by his predecessor, he would have already analyzed the information to arrive at the value. He said some of the properties currently being appealed were those sales, and were going to the BTLA to determine if they were true arms-length transactions. He said it was his belief that they were.

Regarding the Capstone project, he said there was no question that it would have an effect on student housing in Durham. He said the question was whether this would mean the Town would be able to generate more revenue, or revenue would be taken away from downtown student housing, which would mean rents there would have to be lowered, or might mean that some of the housing would need to be updated in order to retain students.

He said the highest and best use of some of the student housing properties downtown might not be as student housing. He noted that a fraternity on Main Street had received an offer for its property, and that only 20 boys were living there. He said if the income approach was applied, the numbers didn't work, and said the highest and best use of the property was probably as a hotel/conference center.

Councilor Stanhope asked whether when Mr Rice had looked at capitalization rates for student housing outside of Durham, if he had taken into consideration the structuring of financing as it related to prices paid, especially in those large block purchases.

Mr. Rice said yes, and provided details on the research he had been doing. He said he was grouping all of the student housing appeals together because he wanted to handle them collectively, and wanted to use the same methodology for all of them.

Administrator Selig told Councilors that in terms of the abatement process, it might be possible to develop a process whereby with these appeals, if the recommended settlement was within a certain percentage of the actual appeal, the ability to settle it would be delegated to him, and he would then make a report to the Council concerning the appeal. He said this would cut down on the Council's workload concerning the appeals.

Councilor Stanhope said he worried about the issue of transparency. He said when it was on the Unanimous Consent Agenda, an individual Councilor had the right to pull it off the agenda and discuss it.

Councilor Gooze agreed it should probably stay on the Unanimous Consent Agenda.

Councilor Mower asked if the Town would be running up against the July 1st deadline.

Mr. Rice said he was sure he could get through the 23 appeals for this year before July 1st, and have everything ready for the first billing cycle.

Councilor Mower MOVED that the Town Council, upon recommendation of the Town Administrator, grant a property tax abatement in the amount of \$1,062,600 of assessed valuation for tax years 2008, 2009, and 2010 to Walter W. Fischer Trust, relative to 18 properties located on Young Drive, and authorize the Town Administrator to sign a Settlement Agreement between Walter W. Fischer Trust and the Town of Durham relative to Docket No. 24659-08PT? Councilor Stanhope SECONDED the motion, and it PASSED unanimously 9-0.

Councilor Mower MOVED that the Town Council, upon recommendation of the Town Administrator, reduce the appraisal of property owned by George F. and Kelley A. Hails, 16 Deer Meadow Road, from \$1,058,800 to \$904,200 for tax years 2008, 2009, and 2010; grant a property tax abatement in the amount of \$154,600 of assessed valuation to George F. and Kelley A. Hails; and authorize the Town Administrator to sign a Settlement Agreement between George F. and Kelley A. Hails and the Town of Durham relative to Docket Numbers 24057-08PT and 25190-09PT. Councilor Cote SECONDED and PASSED unanimously 9-0.

Councilor Smith MOVED that the Town Council, upon recommendation of the Town Administrator, reduce the appraisal of property owned by Three Chimneys Inn, LLC, 17 Newmarket Road, from \$2,498,100 to 2,230,500 for tax years 2008, 2009, and 2010; grant a property tax abatement in the amount of \$267,600 of assessed valuation to Three Chimneys Inn, LLC; and authorize the Town Administrator to sign a Settlement Agreement between Three Chimneys Inn, LLC and the Town of Durham relative to Docket No. 25395-09PT. Councilor Mower SECONDED and PASSED unanimously 9-0.

- B. Presentation and discussion regarding a revised proposal submitted by Peter Murphy for the redevelopment of the H.A. Davis (Grange) building located at 37 Main Street

Administrator Selig noted that the Council had discussed a prior version of the proposal, after getting feedback from the Historic District Commission and the Economic Development Committee. He said Mr. Murphy had then revised the proposal.

Mr. Murphy thanked engineer Mike Sievert and architect Nick Isaak for their help in developing the project. He then read through the Executive Summary of the RFP that had been prepared. He noted should it should say 5 new luxury student housing apartments rather than 8 for now, pending a discussion on density bonuses.

He next reviewed the various questions and answers, documented in the RFP, which he said had been asked by various Town committees over the past few months.

Councilor Gooze asked who would pay for the work with consultant Jack Mette concerning workforce housing for the project, noting that the workforce housing grant had been used up.

Mr. Murphy said he probably could pay for additional work by Mr. Mette.

Councilor Marple said the lack of parking downtown and no plan for it was a huge deal in regard to this and other buildings going in there, especially if there were going to be families living in them.

Councilor Smith said there were some marketplace solutions to that problem. He noted that the Plaza had been leasing its excess parking for (he believed) \$450 per space per semester, without the benefit of a change of use approval from the Planning Board.

Councilor Marple asked if someone living in workforce housing could afford that.

Councilor Smith first noted that the cost of land for parking wouldn't have to be passed on to the tenant in such a situation. He also said it depended on the person. He said it would be very difficult to build workforce housing in downtown Durham and also supply parking.

Councilor Gooze said from his work with the Workforce housing committee, he realized that what was called workforce housing was not Section VIII housing, so it wasn't that people couldn't afford to pay for a parking space.

There was further discussion on the issue of availability of parking.

Councilor Gooze said another important issue was that it would be very challenging for someone to be live in workforce housing downtown because of noise and other issues downtown. He asked what would happen if the apartments couldn't be rented as workforce housing, and Mr. Murphy said there would have to be a dialogue going forward that there would have to be a backup plan.

Chair Carroll said the Council had talked a lot about having workforce housing downtown, and here was a developer who was willing to do this. She said there was the site itself to consider and whether people would actually want to live there, and said they all knew of people who had moved out of neighborhoods because of the noise. But she said she was a strong proponent of workforce housing, and would like to see it work.

Mr. Murphy said he could try to make it work for a few years, and said if it didn't work, it could be used as student housing. He provided details on this, and said if the units sat empty for one or two years, the Council wouldn't see him back asking for anything. He said the worst case scenarios were factored into his financials.

Chair Carroll said a question would also be how much student housing they would want downtown.

Councilor Niman said this was their best shot to see if they could make affordable housing work in Durham, and said they wouldn't know until they tried. He said there would only be three units involved, and said if it didn't work, having 9 students there instead wouldn't break the downtown.

Councilor Gooze said he wasn't against this, but said he wanted to bring out in the open what could happen. He said he thought workforce housing would have worked better at Mr. Murphy's Rosemary Lane property, and said he thought it was an experiment at the Main Street location.

Mr. Sievert said there wasn't parking at the Rosemary Lane property either, and Councilor Gooze said his concerns were in regard to the location of the proposed project. Mr. Sievert noted that Stoke Hall was right across from the Rosemary Lane building.

Mr. Murphy said that regarding the parking issue, to the left of the Grange was a Varsity Durham property, which rented parking, and probably did so cheaper than what spaces went for at the Plaza. He also said that some of the students at his Rosemary Lane property rented parking spaces from Paul Berton.

There was discussion with Mr. Murphy and Mr. Isaak about what the intent was regarding addressing the sloped portions of the property, and also about possibly reworking the path on the property and beyond. Mr. Murphy said his budget included lighting, fencing, and fixing the retaining walls. He said he would have to approach the owner of the Plaza about continuing and improving the path down to the Plaza.

Councilor Mower noted that bicyclists use this path as well.

There was next discussion on density bonus that might be available down the road.

Councilor Mower asked Mr. Murphy how many students by right he could have in the building, and he said he could get close to 30. He provided details on this, said he was looking for this to drive the whole project.

Councilor Mower asked whether the student housing units could be converted to non-student housing in the future if that idea became attractive.

Mr. Murphy said they could be beautiful units for non-students as well, and provided details on this. He said he might decide to take down a wall, in order to reduce the number of bedrooms, and provide more living space, larger closets, etc.

There was next discussion on the Offer Statement, and the fact that there were two Options included in it. Mr. Murphy said because of the fact that he was currently only allowed to do 5 units in the back, he was looking at Option B, the smaller amount of the two.

Councilor Cote asked if the rendering Mr. Isaak had done did reflected Option B, and Mr. Isaak described the difference between what Option B included and what Option A included. He said from the street, they would be fundamentally the same.

Councilor Lawson noted that the proposal included paying the Town over three years, and asked if Durham's security interest in receiving payment would be subordinate to the primary financing vehicle.

Mr. Murphy said yes.

Councilor Lawson asked whether at the time he secured financing, Mr. Murphy would secure enough financing to pay the Town, and would just be deferring the payment for three years.

Mr. Murphy explained that he could go forward without it, but said it would provide him with some flexibility to do this project at this scale. He noted that he had \$55,000 sitting with the Town for the Rosemary Lane project in an Surety lien, and would have that for this project as well.

Councilor Lawson said as supportive as he was of this project, he had concerns about the Town being in the subordinate position for security, and the ramifications for the Town if the project was not successful.

Mr. Murphy said he could take it off the table. He said he appreciated the concern.

Councilor Niman asked what the proposal was concerning property taxes.

Mr. Murphy explained that an approximate tax on an assessed value of \$500,000 would be about \$15,000. He said he would pay that, and would be asking for the tax relief for the improvements to the building and the addition in the back.

Councilor Lawson said his calculations basically agreed with Mr. Murphy's calculations.

Councilor Stanhope said there were two questions that needed to be answered, one of which was whether the Council favored the proposed use, and the second which was the terms of the pricing and financing. He said the second question was complex and said additional time might be needed to address it. He suggested separating the questions, and said if the Council agreed that it supported the land use, there could be further negotiations on the price and terms, which could be brought back as a separate proposal.

Chair Carroll said this was a good idea, and asked Councilors if they would like to respond concerning the first question.

Councilor Marple said it was a very nice project, but noted that there were concerns about having more kids downtown. She said she didn't completely understand this concern, and said she had no problem with the use.

Councilor Lawson said the Town needed another successful project downtown, and the Grange could be an important one. He said he viewed the idea of quality student housing downtown as a positive thing, and also said there was a first opportunity here to provide workforce housing, possibly for employees of the Town and University, who could walk to work every day. He said he liked this concept.

Councilor Cote said moving the building forward would create a better look for the streetscape, and he also noted that this was a building that had been in disrepair. He said what was proposed was a wise use of the property, and said they should take a chance with workforce housing there, and should work with Mr. Murphy in terms of what happened if it didn't work out there. He said he supported the project.

Councilor Niman said he was very supportive of the project. He said if a goal was to preserve the Grange Hall, this was the best way to do this, and said otherwise the Town would need to spend \$400,000-500,000 on its own. He said Durham would be getting a renewed Grange Hall for the price of deferred taxes. He said having student housing there didn't bother him, and was the only way to pay for the project.

Councilor Gooze said he was very much in favor of the project, and said time would tell as to whether the workforce housing would work out the way they wanted it to. He noted that Mr. Murphy might not own the property in the future, and that it would be important that whoever owned in property, it would be taken care of.

Chair Carroll said this was a very worthwhile project, and said Mr. Murphy had a good track record in regard to working with the Town. She said she expected to see a quality restoration, and also said she was excited about the pathway aspect of the project.

Councilor Stanhope spoke about the desire of the HDC to preserve Grange, and said he didn't think there was any way for that to occur unless there was a responsible developer, as was the case now. He said he was very happy that a developer had said he was willing to try workforce housing, noting that while the Council had discussed this for some time, no one had come forward until now.

He said he was optimistic, and said although they all knew that with the students there would be noise and trash, he thought the workforce housing units would be rented. He said parking would be an issue, but said somehow people managed that. He said smart growth said that development should be concentrated downtown, and said having students living there would mean they would shop at the businesses there.

He said when the project was built out, it could have an assessed value at the end of the tax credit period in excess of \$1.5-2 million. He said he wasn't worried about someone making that investment and then letting the property be overrun and degraded. He said landlords who had built out new projects in Durham were the ones they wanted to see more of. He said they were creating a lot of money to make quality improvements.

Councilor Stanhope said the landlords who troubled him were those who wouldn't let the code people in. He said the HDC strongly supported this project, and said with it, the Council would be saving an historic building. He spoke further, and noted that whatever sale price they agreed to would be revenue as well for the Town. He said he hoped the Council would support the project.

Councilor Mower said she agreed, although noting that she had some conflicts about the project. She said she would like to believe in the optimistic perspective others had stated, but said she did have some skepticism. She also said she wondered if the Council had discussed definitively the benefit to the Town of perhaps using the land in a different way, as an access to the Plaza. In addition, she noted that a resident had suggested that the Grange's historical value was not so great that it should be maintained, and that instead something new could be created on the property.

Councilor Smith said this was a good project, and said he hoped that when Mr. Murphy finished with this one, he would look next door and work his way west.

Councilor Mower said a key point was that there wasn't yet a plan for the rest of the downtown.

Administrator Selig said the intent was to continue to talk with Mr. Murphy and fine tune the financial proposal. He asked Councilors for feedback on having either a commercial space or a meeting space on the first floor. He said another question was whether they were interested in pursuing the use of tax breaks through RSA 79-E, or addressing this instead with the sale price. He said the Grange was a perfect property for using RSA 79-E, but said it was an odd situation because the Town owned it so could control the price, which might make using RSA 79-E unnecessary.

Councilor Mower said she would like Councilors to weigh in on covenant items.

Councilor Niman said he would like to avoid the RSA 79-E route, and to instead lower the price so things worked out. He said this would make things simpler for Mr. Murphy, and would mean that he would need to put less cash up front. He said it would also mean that the Town wouldn't need to worry about what happened over the next 9 years.

Councilor Gooze said he agreed. He also said that as far as the issue of meeting space vs. commercial space was concerned, hopefully there would be meeting space at the new Library, where there would also be parking. He said he would therefore prefer that the first floor be commercial space.

Councilor Stanhope said he strongly supported using the first floor as commercial space. He said that from an economic standpoint, this would create value in the property, and said the Town would be able to assess it for more. He also questioned the need to supply community space there when the Town was building a new Library, and said nonprofits could use space at the University for meetings

Councilor Mower MOVED to extend the meeting beyond 10:30 pm. Councilor Smith SECONDED the motion, and it PASSED unanimously 9-0.

Chair Carroll asked if there would be a public hearing on the proposal.

Administrator Selig said yes, and recommended doing it once a financial proposal was fine tuned so the public could weigh in on a specific proposal.

Chair Carroll said those who had listened to this discussion might have some ideas the Council would want to hear about using the first floor as a meeting space. She noted that Parks and Recreation Director Sandy Devins had said she would love to have a place to hold art exhibitions, etc.

Councilor Mower recommended that it be a commercial space, and said at this particular place and time, there should be optimism about being able to fill it.

Councilor Smith said many commercial spaces were also community spaces, noting the Bagelry and Young's Restaurant. He said the Grange could be that kind of space because of its location, at a major crossroad. He said pedestrians walked past it constantly, and noted that historically, the Grange was where some community members had met. He said he was willing to go into this without a great deal of planning on how the first floor would be used, and said Mr. Murphy might have a multi-purpose space that could be leased for various purposes. He said he thought they needed to let go of this building.

Councilor Cote noted discussion about having a roundabout at the intersection, and asked if this project would affect that.

Mr. Sievert said he wasn't sure where the roundabout would end up going, but said he didn't think it would happen without taking a bunch of properties.

Councilor Mower noted that Kevin Gardner had had some of his engineering students look at the idea of having a roundabout there, and they had concluded that there wasn't enough room there.

Administrator Selig referenced the B. Dennis report, which said that roundabouts weren't ideal in a downtown setting. He also said the grade at the Grange property was too steep to allow a road down to Mill Plaza, and said such a road instead should come from the property to the left.

He said he would strive to bring forward a revised proposal for the next Council meeting, and reviewed the next steps after that. He said Mr. Murphy could potentially get started as early as the summer.

X. Unfinished Business

- A. **PUBLIC HEARING** on an application for the Community Revitalization Tax Relief Incentive Program (RSA 79-E) submitted by Bosen & Springer, PLLC, on behalf of Matthew Crape, for property located at 8 Jenkins Court (**Note: This item was removed from the agenda at the start of the meeting**).
- B. **PUBLIC HEARING** on an application for the Community Revitalization Tax Relief Incentive Program (RSA 79-E) submitted by Bosen & Springer, PLLC, on behalf of Matthew Crape, for property located at 9-11 Madbury Road

Councilor Stanhope recused himself.

Councilor Mower MOVED to open the Public Hearing on an application for the Community Revitalization Tax Relief Incentive Program (RSA 79-E) submitted by Bosen & Springer, PLLC, on behalf of Matthew Crape, for property located at 9-11 Madbury Road. Councilor Gooze SECONDED the motion, and it PASSED unanimously 8-0.

Attorney Chris Mulligan represented Mr. Crape, and provided details on the application, as he had done at a previous Council meeting.

It was noted that there were no members of the public who wished to speak for or against the application.

Councilor Niman asked about the internal construction of the apartments, and whether anyone other than students would be able to live in them. He noted that there wasn't a floor plan.

Mr. Crape said just as Mr. Murphy had said, interior partitions could be moved/removed, and said this building was more friendly for a family than his first building. He said the units would average 4 bedrooms, and said 2 of the rooms could be combined to make a larger master bedroom, and kids could use the smaller bedrooms in a unit. He also said bedroom space could be added to the living area.

Councilor Niman said the last time this was before the Council, there weren't covenants that were appropriate. He said a potential covenant he would be interested in was subsidizing rents for commercial space. He asked Mr. Crape whether, if he got tax relief, if he would be interested in all of the tax incentives being used to subsidize the rents for the commercial space, so it could be rented at or below the market price, so he could get commercial entities that might not normally come to Durham to expand the commercial offerings downtown.

Mr. Crape said a question was how long this would this be for. He also said he was looking at the base 5 years in terms of tax relief. He said part of the presentation last time was providing a more quality product as a benefit to the community, rather than what Councilor Niman had suggested.

Councilor Niman said he was hearing that Mr. Crape would upgrade the building materials and architectural details that he wouldn't otherwise put in the building.

There was discussion on how the covenants did or did not reflect this.

Councilor Gooze said it was up to the Council to decide which public benefits it wanted to stress, and how much he thought these were met with the application. He said so far, he wasn't hearing what he thought would be possible. He asked if any more information would be provided.

Administrator Selig suggested that Councilors put forth their aspirations, and he would then negotiate with the applicant.

Councilor Gooze agreed with the idea of getting better commercial space downtown. He said he would also like to see something concerning workforce housing.

Councilor Mower said she would like to see something about encouraging walkability, so they didn't wind up with a narrow sidewalk such as was the case at Jenkins Court.

Chair Carroll said it sounded like the Council had more questions for Mr. Crape to answer, and would like more information.

Councilor Niman said he would like to close the public hearing. He said the Council had talked about enhanced guidelines for public benefits under RSA 79-E, and said he would like to see them implemented. He said he hadn't heard any connection between this project and those guidelines. He said he would like to see Administrator Selig negotiate with Mr. Crape, working with the enhanced guidelines, and develop some covenants that reflected them. He said he would use that to make his decision about granting the tax breaks.

Councilor Smith asked if they could use the enhanced guidelines legally, since this application had come in before they were developed.

Administrator Selig said those developed guidelines were found in the Master Plan or Zoning Ordinance, so could be pointed to, in order to justify some kind of relief.

Councilor Mower also said there was the right to ask for further benefit criteria, and it didn't say this had to be in writing.

Councilor Mower MOVED to close the Public Hearing. Councilor Smith SECONDED the motion, and it PASSED unanimously 8-0.

Administrator Selig asked Mr. Crape if there was an openness to discuss some restriction on subsidized rental for desirable commercial space, and incorporating that in to the covenants.

Attorney Mulligan said they were willing to discuss the idea of subsidizing the commercial use, and said perhaps it would be considered if the Council considered giving relief for more than the base 5 years.

Administrator Selig asked if there was interest in reserving some units for workforce housing, in exchange for tax relief.

Attorney Mulligan said they could talk about this, but said he couldn't say there was a lot of interest in this. He said the unit size for workforce housing could be problematic. He noted that they had provided updated covenants to Mr. Campbell, and these were similar to those previously provided. He said it was believed they had met the criteria, and provided enough public benefit by replacing the building there with a very nice building they would all enjoy seeing for the next 100 years.

Attorney Mulligan received confirmation that the companion application would not be heard because it did not qualify under RSA 79-E.

Councilor Stanhope returned to the table at 11:03 pm.

- C. Continue discussion on draft resolution regarding enhanced guidelines for use by the Town Council in considering applications under RSA 79-E, Community Revitalization Tax Relief Incentive Program

Councilor Gooze noted that it was late, and said the remaining items should be addressed at a future meeting.

Other Councilors agreed.

Councilor Smith thanked Administrator Selig for bringing this together. He said he had gone through the draft of the enhanced guidelines, and said they provided a good basis for a shorter, more concise version. He asked the Council to consider doing this.

Administrator Selig said one item not covered was energy efficiency. There was brief discussion on how to address this.

- D. Continue discussion regarding the development of Town Council goals for 2011/12 (This item was not discussed).

XI. New Business

Other business - None

XII. Nonpublic Session (if required)

XIII. Extended Councilor and Town Administrator Roundtable (if required)

XIV. Adjourn (NLT 10:30 PM)

Councilor Cote MOVED to adjourn the meeting. Councilor Niman SECONDED the motion, and it PASSED unanimously 9-0.

Adjournment at 11:06 pm

Victoria Parmele, Minutes taker